

IC 5-28-15

Chapter 15. Enterprise Zones

IC 5-28-15-1

"High technology business operations"; "advanced computing"; "advanced materials"; "biotechnology"; "electronic device technology"; "environmental technology"; "medical device technology"

Sec. 1. (a) As used in this chapter, "high technology business operations" means the operations in Indiana of a business engaged in the following:

- (1) Advanced computing.
- (2) Creation of advanced materials.
- (3) Biotechnology.
- (4) Electronic device technology.
- (5) Environmental technology.
- (6) Medical device technology.

(b) For purposes of this section, "advanced computing" means technology used in the designing and developing of computing hardware and software, including innovations in designing the full range of hardware from hand held calculators to supercomputers and peripheral equipment.

(c) For purposes of this section, "advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value added metals, electronic materials, composites, polymers, and biomaterials.

(d) For purposes of this section, "biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and subatomic levels, as well as novel products, services, technologies, and subtechnologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

(e) For purposes of this section, "electronic device technology" means technology involving any of the following:

- (1) Microelectronics.
- (2) Semiconductors.
- (3) Electronic equipment.
- (4) Instrumentation.
- (5) Radio frequency waves.
- (6) Microwaves.
- (7) Millimeter electronics.
- (8) Optical and optic electrical devices.
- (9) Data and digital communications.
- (10) Imaging devices.

(f) For purposes of this section, "environmental technology" means any of the following:

- (1) The assessment and prevention of threats or damage to human health or the environment.

(2) Environmental cleanup.

(3) The development of alternative energy sources.

(g) For purposes of this section, "medical device technology" means technology involving any medical equipment or product (other than a pharmaceutical product) that has therapeutic value or diagnostic value and is regulated by the federal Food and Drug Administration.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-2

"U.E.A."

Sec. 2. As used in this chapter, "U.E.A." refers to an urban enterprise association established under section 13 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-3 Version a

"Zone business"

Note: This version of section effective until 1-1-2006. See also following version of this section, effective 1-1-2006.

Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit or exemption incentive available under this chapter, IC 6-1.1-20.8, or IC 6-3-3-10.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-3 Version b

"Zone business"

Note: This version of section effective 1-1-2006. See also preceding version of this section, effective until 1-1-2006.

Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, deduction, or exemption incentive available under this chapter, IC 6-1.1-20.8, IC 6-1.1-45, IC 6-3-3-10, IC 6-3.1-7, or IC 6-3.1-10.

As added by P.L.4-2005, SEC.34. Amended by P.L.214-2005, SEC.7.

IC 5-28-15-4

Incentives not available to certain licensees; exceptions

Sec. 4. (a) Except as provided in subsection (b):

(1) a package liquor store that holds a liquor dealer's permit under IC 7.1-3-10; or

(2) any other entity that is required to operate under a license issued under IC 7.1;

is not eligible for incentives available to zone businesses.

(b) Subsection (a) does not apply to the recipient of an incentive if:

(1) the recipient entered into a written agreement concerning the incentive under IC 4-4-6.1-8 (transferred to section 17 of this chapter) before July 1, 1995;

(2) the recipient is described in:

(A) IC 7.1-3-3-1;

(B) IC 7.1-3-8-1;

- (C) IC 7.1-3-13-1; or
- (D) IC 7.1-5-7-11; or
- (3) the recipient:
 - (A) holds a license under IC 7.1; and
 - (B) receives at least sixty percent (60%) of the recipient's annual revenue from retail food sales.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-5 Version a

Powers of board; assistance by zone businesses

Note: This version of section effective until 7-1-2005. See also following version of this section, effective 7-1-2005.

Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

- (1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.
- (2) To waive or modify rules as provided in this chapter.
- (3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.
- (4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:
 - (A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.
 - (B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.
 - (C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.
- (5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.
- (6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:
 - (A) is in the best interests of the zone; and
 - (B) meets the threshold criteria and factors set forth in section 9 of this chapter.
- (7) To employ staff and contract for services.
- (8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.
- (9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons

owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives a credit under this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-5 Version b

Powers of board; assistance by zone businesses

Note: This version of section effective 7-1-2005. See also preceding version of this section, effective until 7-1-2005.

Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its

incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives an incentive described in section 3 of this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

As added by P.L.4-2005, SEC.34. Amended by P.L.214-2005, SEC.8.

IC 5-28-15-6 Version a

Enterprise zone fund

Note: This version of section effective until 7-1-2005. See also following version of this section, effective 7-1-2005.

Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

- (1) the revenue from the registration fee required under section 5 of this chapter; and
- (2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

- (1) pay the expenses of administering the fund;
- (2) pay nonrecurring administrative expenses of the enterprise zone program; and
- (3) provide grants to U.E.A.s for brownfield remediation in enterprise zones.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-6 Version b

Enterprise zone fund

Note: This version of section effective 7-1-2005. See also preceding version of this section, effective until 7-1-2005.

Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

- (1) the revenue from the registration fee required under section 5 of this chapter; and
- (2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

- (1) pay the expenses of administering the fund;
- (2) pay nonrecurring administrative expenses of the enterprise zone program;

- (3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; and
- (4) pay administrative expenses of urban enterprise associations.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

As added by P.L. 4-2005, SEC.34. Amended by P.L. 214-2005, SEC.9.

IC 5-28-15-7

Annual summary of tax credits and exemptions claimed and submission of payment; extension of time; waiver of incentives and other sanctions for noncompliance

Sec. 7. (a) Subject to subsections (c) and (d), a zone business that claims any of the incentives available to zone businesses shall, by letter postmarked before June 1 of each year:

- (1) submit to the board and to the zone U.E.A., on a form prescribed by the board, a verified summary concerning the amount of tax credits and exemptions claimed by the business in the preceding year; and
- (2) pay the amount specified in section 5(a)(4) of this chapter to the board.

(b) In order to determine the accuracy of the summary submitted under subsection (a), the board is entitled to obtain copies of a zone business's tax records directly from the department of state revenue, the department of local government finance, or a county official, notwithstanding any other law. A summary submitted to a board or zone U.E.A. or a record obtained by the board under this section is confidential. A board member, a U.E.A. member, or an agent of a board member or U.E.A. member who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

(c) The board may grant one (1) extension of the time allowed to comply with subsection (a) under the provisions of this subsection. To qualify for an extension, a zone business must apply to the board by letter postmarked before June 1. The application must be in the form specified by the board. The extension may not exceed forty-five (45) days under rules adopted by the board under IC 4-22-2.

(d) If a zone business that did not comply with subsection (a)

before June 1 and did not file for an extension under subsection (c) before June 1 complies with subsection (a) before July 16, the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business are waived, unless the zone business pays to the board a penalty of fifteen percent (15%) of the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business. A zone business that pays a penalty under this subsection for a year must pay the penalty to the board before July 16 of that year. The board shall deposit any penalty payments received under this subsection in the enterprise zone fund.

(e) This subsection is in addition to any other sanction imposed by subsection (d) or any other law. If a zone business fails to comply with subsection (a) before July 16 and does not pay any penalty required under subsection (d) by letter postmarked before July 16 of that year, the zone business is:

- (1) denied all the tax credit and exemption incentives available to a zone business because the business was a zone business for that year; and
- (2) disqualified from further participation in the enterprise zone program under this chapter until the zone business:
 - (A) petitions the board for readmission to the enterprise zone program under this chapter; and
 - (B) pays a civil penalty of one hundred dollars (\$100).

As added by P.L.4-2005, SEC.34.

IC 5-28-15-8

Request for records; confidentiality of records

Sec. 8. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:

- (1) The board.
- (2) A U.E.A.
- (3) The department of state revenue.
- (4) The corporation.
- (5) The department of local government finance.
- (6) A county auditor.
- (7) A township assessor.

(b) A person or an entity listed in subsection (a) may request a second person or entity described in subsection (a) to provide any records or other information maintained by the second person or entity that concern an individual or a business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person or entity to whom the request is made under this section must comply with the request. A person or entity receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person or an entity that receives confidential records or

information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-9

Designation of enterprise zones; applications; evaluation criteria and factors

Sec. 9. (a) The board may designate up to ten (10) enterprise zones, in addition to any enterprise zones the federal government may designate in Indiana. The board may by seven (7) affirmative votes increase the number of enterprise zones above ten (10), but it may not add more than two (2) new zones each year (excluding any zone that may be added by the board in a municipality in which a previously designated zone has expired) and may not add any new zones after December 31, 2015. There may not be more than one (1) enterprise zone in any municipality.

(b) After approval by resolution of the legislative body, the executive of any municipality that is not an included town under IC 36-3-1-7 may submit one (1) application to the board to have one (1) part of the municipality designated as an enterprise zone. If an application is denied, the executive may submit a new application. The board shall provide application procedures.

(c) The board shall evaluate an enterprise zone application if it finds that the following threshold criteria exist in a proposed zone:

(1) A poverty level in which twenty-five percent (25%) of the households in the zone are below the poverty level as established by the most recent United States census or an average rate of unemployment for the most recent eighteen (18) month period for which data is available that is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) A population of more than two thousand (2,000) but less than ten thousand five hundred (10,500).

(3) An area of more than three-fourths (3/4) of a square mile but less than four (4) square miles, with a continuous boundary (using natural, street, or highway barriers when possible) entirely within the applicant municipality. However, if the zone includes a parcel of property that:

(A) is owned by the municipality; and

(B) has an area of at least twenty-five (25) acres;

the area of the zone may be increased above the four (4) square mile limitation by an amount not to exceed the area of the municipally owned parcel.

(4) Property suitable for the development of a mix of commercial, industrial, and residential activities.

(5) The appointment of a U.E.A. that meets the requirements of section 13 of this chapter.

(6) A statement by the applicant indicating its willingness to provide certain specified economic development incentives.

(d) If an applicant has met the threshold criteria of subsection (c), the board shall evaluate the application, arrive at a decision based on the following factors, and either designate a zone or reject the application:

- (1) Level of poverty, unemployment, and general distress of the area in comparison with other applicant and nonapplicant municipalities and the expression of need for an enterprise zone over and above the threshold criteria of subsection (c).
- (2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone, and the demonstration of a willingness among those zone constituents to participate in zone area revitalization.
- (3) Efforts by the applicant municipality to reduce the impediments to development in the zone area where necessary, including but not limited to the following:
 - (A) A procedure for streamlining local government regulations and permit procedures.
 - (B) Crime prevention activities involving zone residents.
 - (C) A plan for infrastructure improvements capable of supporting increased development activity.
- (4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.
- (5) The proposed managerial structure of the zone and the capacity of the U.E.A. to carry out the goals and purposes of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-10

Expiration of enterprise zone; renewal

Sec. 10. (a) An enterprise zone expires ten (10) years after the day on which it is designated by the board. The two (2) year period immediately before the day on which the enterprise zone expires is the phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the following criteria and may, with the consent of the budget committee, renew the enterprise zone, including all provisions of this chapter, for five (5) years:

- (1) Increases in capital investment in the zone.
- (2) Retention of jobs and creation of jobs in the zone.
- (3) Increases in employment opportunities for residents of the zone.

(b) If an enterprise zone is renewed under subsection (a), the two (2) year period immediately before the day on which the enterprise zone expires is another phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the criteria set forth in subsection (a) and, with the consent of the budget committee, may again renew the enterprise zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5)

year period.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-11

Closed or inactive military base

Sec. 11. (a) Notwithstanding any other provision of this chapter, one (1) or more units (as defined in IC 36-1-2-23) may declare all or any part of a military base or another military installation that is inactive, closed, or scheduled for closure as an enterprise zone. The declaration shall be made by a resolution of the legislative body of the unit that contains the geographic area being declared an enterprise zone. The legislative body must include in the resolution that a U.E.A. is created or designate another entity to function as the U.E.A. under this chapter. The resolution must also be approved by the executive of the unit.

(b) If the resolution is approved, the executive shall file the resolution and the executive's approval with the board. If an entity other than a U.E.A. is designated to function as a U.E.A., the entity's acceptance must be filed with the board along with the resolution. The enterprise zone designation is effective on the first day of the month following the day the resolution is filed with the board.

(c) Establishment of an enterprise zone under this section is not subject to the limit of two (2) new enterprise zones each year under section 9(a) of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-12

Enlargement of enterprise zone

Sec. 12. The board may not approve the enlargement of an enterprise zone's geographic boundaries unless the area to be enlarged meets the criteria of economic distress set forth in section 9(c)(1) of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-13

Urban enterprise associations; establishment

Sec. 13. (a) There is established in each applicant for designation as an enterprise zone and in each enterprise zone an urban enterprise association (U.E.A). The twelve (12) members of the U.E.A. shall be chosen as follows:

- (1) The governor shall appoint the following:
 - (A) One (1) state legislator whose district includes all or part of the enterprise zone.
 - (B) One (1) representative of the corporation, who is not a voting member of the U.E.A.
- (2) The executive of the municipality in which the zone is located shall appoint the following:
 - (A) One (1) representative of the plan commission having jurisdiction over the zone, if any exists.
 - (B) One (1) representative of the municipality's department

- that performs planning or economic development functions.
 - (C) Two (2) representatives of businesses located in the zone, one (1) of whom shall be from a manufacturing concern, if any exists in the zone.
 - (D) One (1) resident of the zone.
 - (E) One (1) representative of organized labor from the building trades that represent construction workers.
 - (3) The legislative body of the municipality in which the zone is located shall appoint, by majority vote, the following:
 - (A) One (1) member of the municipality's legislative body whose district includes all or part of the zone.
 - (B) One (1) representative of a business located in the zone.
 - (C) Two (2) residents of the zone, who must not be members of the same political party.
 - (b) Members of the U.E.A. serve four (4) year terms. The appointing authority shall fill any vacancy for the balance of the vacated term.
 - (c) Members may be dismissed only by the appointing authority and only for just cause.
 - (d) The members shall elect a chairperson, a vice chairperson, and a secretary by majority vote. This election shall be held every two (2) years in the same month as the first meeting or whenever a vacancy occurs. The U.E.A. shall meet at least once every three (3) months. The secretary shall notify members of meetings at least two (2) weeks in advance of meetings. The secretary shall provide a list of members to each member and shall notify members of any changes in membership.
 - (e) If an applicant for designation as an enterprise zone does not receive that designation, the U.E.A. in that municipality is dissolved when the application is rejected.
- As added by P.L.4-2005, SEC.34.*

IC 5-28-15-14

Powers and duties of association

Sec. 14. (a) A U.E.A. shall do the following:

- (1) Coordinate zone development activities.
- (2) Serve as a catalyst for zone development.
- (3) Promote the zone to outside groups and individuals.
- (4) Establish a formal line of communication with residents and businesses in the zone.
- (5) Act as a liaison between residents, businesses, the municipality, and the board for any development activity that may affect the zone or zone residents.

(b) A U.E.A. may do the following:

- (1) Initiate and coordinate any community development activities that aid in the employment of zone residents, improve the physical environment, or encourage the turnover or retention of capital in the zone. These additional activities include but are not limited to recommending to the municipality the manner and purpose of expenditure of funds generated

under IC 36-7-14-39(g) or IC 36-7-15.1-26(g).

(2) Recommend that the board modify a zone boundary or disqualify a zone business from eligibility for one (1) or more benefits or incentives available to zone businesses.

(3) Incorporate as a nonprofit corporation. Such a corporation may continue after the expiration of the zone in accordance with the general principles established by this chapter. A U.E.A. that incorporates as a nonprofit corporation under this subdivision may purchase or receive real property from a redevelopment commission under IC 36-7-14-22.2 or IC 36-7-15.1-15.2.

(c) The U.E.A. may request, by majority vote, that the legislative body of the municipality in which the zone is located modify or waive any municipal ordinance or regulation that is in effect in the zone. The legislative body may, by ordinance, waive or modify the operation of the ordinance or regulation, if the ordinance or regulation does not affect health (including environmental health), safety, civil rights, or employment rights.

(d) The U.E.A. may request, by majority vote, that the board waive or modify any state rule that is in effect in the zone. The board shall review the request and may approve, modify, or reject the request. Approval or modification by the board shall take place after review by the appropriate state agency. A modification may include but is not limited to establishing different compliance or reporting requirements, timetables, or exemptions in the zone for a business or an individual, to the extent that the modification does not adversely affect health (including environment health), safety, employment rights, or civil rights. An approval or a modification of a state rule by the board takes effect upon the approval of the governor. In no case are the provisions of IC 22-2-2 and IC 22-7-1-2 mitigated by this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-15

Eligibility of businesses relocating non-zone businesses; determination; hearing panel; order; criteria; exceptions; objections; final determination

Sec. 15. (a) Any business that substantially reduces or ceases an operation located in Indiana and outside an enterprise zone (referred to as a nonzone operation) in order to relocate in an Indiana enterprise zone is disqualified from benefits or incentives available to zone businesses. Determinations under this section shall be made by a hearing panel composed of the chairperson of the board or the chairperson's designee, the commissioner of the department of state revenue or the commissioner's designee, and the commissioner of the department of local government finance or the commissioner's designee. The panel, after an evidentiary hearing held subsequent to the relocation of the business, shall submit a recommended order to the board for its adoption. The recommended order shall be based on the following criteria and subsection (b):

(1) A site specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees shall be considered a business operation.

(2) With respect to a nonzone operation, any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nonzone operation to the enterprise zone as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of:

(i) one hundred (100) employees; or

(ii) twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and incentives available to zone businesses if each of the following conditions is met:

(1) The business relocates its nonzone operation for any of the following reasons:

(A) The lease on property necessary for the nonzone operation has been involuntarily lost through no fault of the business.

(B) The space available at the location of the nonzone operation cannot accommodate planned expansion needed by the business.

(C) The building for the nonzone operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nonzone operation has been totally destroyed through no fault of the business.

(E) The renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the zone, as certified by three (3) independent estimates.

A business is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the zone. These costs must be certified by three (3) independent estimates.

(2) The business has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nonzone operation without the consent of the employees.

(c) The hearing panel shall cause to be delivered to the business and to any person who testified before the panel in favor of disqualification of the business a copy of the panel's recommended order. The business and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to oppose the board's adoption of the recommended order of the hearing panel shall, not later than ten (10) days after the party's receipt of the recommended order, file written objections with the board. If the objections are filed, the board shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the board a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the board. The board may hear additional evidence or remand the action to the hearing panel with instructions appropriate to the expeditious and proper disposition of the action. The board may adopt the recommendations of the hearing panel, may amend or modify the recommendations, or may make an order or determination as is proper on the record.

(e) If no objections are filed, the board may adopt the recommended order without oral argument. If the board does not adopt the proposed findings of fact and recommended order, the parties shall be notified and the action shall be set for oral argument as provided in subsection (d).

(f) The final determination made by the board shall be made by a majority of the quorum needed for board meetings.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-16

Job training; residents of enterprise zone

Sec. 16. Whenever federal or state money is available for job training purposes, considerations shall, to the extent possible, be given to training residents of enterprise zones in industry specific skills relevant to a resident's particular zone.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-17

State pledge and agreement

Sec. 17. The state pledges to and agrees with the direct recipient of any enterprise zone incentive under this chapter that the state will not limit or alter the rights vested in the U.E.A. to fulfill the terms of any agreements it makes with those recipients or in any way impair the rights and remedies of those recipients until the terms of the incentive are fulfilled. The board may include this pledge and agreement of the state in any agreement it makes with the recipient.

As added by P.L.4-2005, SEC.34.

